IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

APPEAL FROM ORDER NO.776 OF 2005
WITH
CIVIL APPLICATION NO.914 OF 2005

Manoj K. George & Ors. ...Appellants.
Vs.
B.M. C. & Ors. ...Respondents.

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Ms.Sangita A. Musle i/b. Mr. Vinay Hegde for the Appellants.
Mrs. Geeta Joglekar for the Respondent.

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CORAM : DR. D.Y. CHANDRACHUD, J.

November 21, 2005.

P.C.:

On an inspection by the Municipal staff attached to K-West Ward on 12th April 2001 at Shouri Complex, Andheri, it was found that there was an unauthorised construction of five structures admeasuring 7' x 7' each with a height of 8 feet. A notice was issued to the owner/occupier on 11th June 2001. A reply was filed on 18th June 2001, upon consideration of which a reasoned order was passed on 23rd May 2003 rejecting the contention that what was being carried out was only a rectification of a leakage. The premises came to be demolished on 2nd July 2003. The Municipal Corporation in its affidavit in reply before the Trial Court stated that

on 28th and 29th August 2004 taking advantage of the fourth Saturday and a weekly holiday on Sunday, an attempt was made to reconstruct the premises again. The officer posted on control duty received a complaint that unauthorised work was in progress and upon inspection found that the unauthorised work was duly carried out. A notice was thereafter issued under Section 354A of the Mumbai Municipal Corporation Act, 1888.

The demolition report in respect of the structures which were demolished on 2nd July 2003 was placed before the Learned Trial Judge together with photographs of the structures which were demolished. The Learned Trial Judge has observed that since a demolition had taken place, the Appellants were not entitled to any interim relief in respect of the reconstruction which was plainly unauthorised. These findings of the Learned Trial Judge do not suffer any error. The appeal is accordingly dismissed.

In view of the disposal of the appeal, the Civil Application does not survive and is accordingly disposed of.

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